

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 96-1504**

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REBA JEAN NELSON, Individually and as Executor  
of the Estate of Harry K. Nelson,

Plaintiff - Appellant,

versus

HUFF-COOK MUTUAL BURIAL ASSOCIATION, INCORPORATED PENSION PLAN; JESSEE E. WALKER, Personally and in his capacity as Plan Administrator for Huff-Cook Mutual Burial Association, Incorporation Pension Plan; HUFF-COOK MUTUAL BURIAL ASSOCIATION, INCORPORATED,

Defendants - Appellees.

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Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, District Judge. (CA-94-770-R)

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Argued: January 28, 1997

Decided: February 28, 1997

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Before WILKINSON, Chief Judge, MICHAEL, Circuit Judge, and HILTON, United States District Judge for the Eastern District of Virginia, sitting by designation.

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Affirmed by unpublished per curiam opinion.

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**ARGUED:** John Bertram Mann, LEVIT & MANN, Richmond, Virginia, for Appellant. William Fain Rutherford, Jr., FLIPPIN, DENSMORE, MORSE, RUTHERFORD & JESSEE, Roanoke, Virginia, for Appellees. **ON BRIEF:** Todd A. Leeson, FLIPPIN, DENSMORE, MORSE, RUTHERFORD & JESSEE, Roanoke, Virginia, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Reba Nelson brought suit against Huff-Cook Mutual Retirement Association, her deceased husband's former employer, alleging that as plan administrator, Huff-Cook had violated the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1001 et seq., by denying her pension benefits and failing to notify her properly of her right to appeal such denial. Nelson claimed that her husband had been a participant in the Huff-Cook pension plan and that she was therefore entitled to joint and survivor annuity benefits. Finding that her husband had never met the plan's participation requirements, the district court concluded that Nelson was not a "beneficiary" under the plan and thus lacked standing to bring an ERISA claim. The court granted Huff-Cook summary judgment and dismissed Nelson's pendent state law contract claim without prejudice. Nelson appeals the award of summary judgment.

We have reviewed the briefs and record in this case, and we have heard oral argument. Our review persuades us that the decision of the district court was correct. We therefore affirm the judgment on the reasoning set forth in the district court's thoughtful memorandum opinion. Nelson v. Huff-Cook Mutual Burial Assoc., Inc. Pension Plan, C.A. No. 94-0770-R (W.D. Va. Mar. 7, 1996).

AFFIRMED